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EXAMINER
ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
2175	

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application N .	Applicant(s)
Offic Action Summary	09/741,600	HUNT ET AL.
	Examiner	Art Unit
	Neveen Abel-Jalil	2175

-- The MAILING DATE of this communication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>2/24/2003</u> .

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>*1-15 and 30-43*</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _____ *1-15, and 30-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

DIANE D. MIZRAHI
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on <u>2/24/2003</u> is: a)☒ approved b)☐ disapproved by the Examiner.

     If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some *   c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

     a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)	4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5)☐ Notice of Informal Patent Application (PTO-152)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6)☐ Other: .

DETAILED ACTION

1.   The amendment filed on February 24, 2003 has been received and entered. Claims 1-15,

and 30-43 are pending. Claims 16-29 have been canceled. Claims 30-43 have been added.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3.   Claims 1-4, and 6-29 are rejected under 35 U.S.C. 102(e) as being anticipated by

Easty et al. (U.S. Patent No. 6,189,008).

As to claim 1, Easty et al. discloses an automatic user preference detection system,

comprising:

a score calculation module (See column 4, lines 15-24, wherein "score" reads on

"rating") to determine a score for a media content file (See column 2, lines 58-60, wherein

"media" reads on "digital", also see abstract) distributed to a user by a media content file

distribution source (See figure 1, end server 13), wherein the score (See column 4, lines 15-24,

wherein "score" reads on "rating") is calculated based on a comparison (See column 5, lines 46-

63) of a length in time in which the user allows the media content file to be played at a user

computing devise (See column 4, lines 37-49) relative to a total length of the media content file (See column 4, lines 28-36);

a database to store a preference file (See figure 1, end point database 14) for the user of the media content file distribution source (See figure 1, end server 13), the preference file being (See column 5, lines 1-21) based on previously determined media scores for the user and a determination of local media content files stored on the user's computing devise (See column 7, lines 1-12, also see column 4, lines 15-36, wherein "agenting section" can be stored on a user's PC); and

a processing module (See column 6, lines 5-16) to modify the preference file based on the score, wherein the processing module further selects a second media content file to distribute to the user based on the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines 66-67, wherein "score" reads on "rating").

As to claim 2, Easty et al. discloses wherein the media content file is a music file (See column 2, line 10-17).

As to claim 3, Easty et al. discloses wherein a rate at which the processing module modifies the preference file is configurable (See column 6, lines 5-16, also see column 4, lines 66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously updated", also see column 6, lines 62-67, wherein "configurable" reads on "real time").

As to claim 4, <u>Easty et al.</u> discloses the system of claim 1, wherein the system determines

the length based on the user's responses made with user control point (See column 5, lines 49-61,

also see column 4, lines 28-49).

As to claim 6, <u>Easty et al.</u> discloses wherein the media content files are sent to the user

via an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see

"column 1, line 47, wherein "stream" reads on "downstream data", also see column 3, lines 54-

63, and see column 1, lines 59-63).

As to claim 7, <u>Easty et al.</u> discloses wherein the processing module periodically selects

testing media content files to distribute to the user (See column 4, lines 66-67, and column 5,

lines 13, wherein "periodically" reads on "in real-time", and wherein "testing" reads on

"recommends... a new CD"), wherein the testing media content files are randomly selected to

test whether the user's media content file preference have changed (See column 2, lines 36-67,

wherein "randomly selected" reads on "refreshes...selectively delivering", and wherein "testing"

reads on "interactive").

As to claim 8, <u>Easty et al.</u> discloses wherein the processing module further modifies the

preference file based on responses of other users having similar media preferences (See column

4, lines 62-65, also see column 3, lines 1-10, wherein "processing module " reads on "central

server", and wherein "responses of other users" reads on "aggregate profile").

As to claim 9, Easty et al. discloses an automatic user preference detection system, comprising:

a database (See figure 1, end point database 14) to store a media content preference file (See column 2, lines 58-60, wherein "media" reads on "digital") for a user of a media content distribution source (See figure 1, end point server 13), the preference file (See column 5, lines 1-21) being based on previously determined media scores for the user, a score determined based on comparison of a length of time in which the user allows a media content file to be played at a user computing devise relative to a total length of the media content file, and a determination of local media content files stored on the user's computing devise (See column 7, lines 1-12, also see column 4, lines 15-36, wherein "agenting section" can be stored on a user's PC);

a read/write device to read data from and write data to the database (See figure 1, end point server 13);

a processing module (See column 6, lines 5-16) to modify the preference file based on the score, wherein the processing module further selects a second media content file to distribute to the user based on the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines 66-67, wherein "score" reads on "rating").

As to claim 10, Easty et al. discloses wherein the media content file is music file (See column 2, line 14).

As to claim 11, Easty et al. discloses wherein a rate at which the processing module modifies the preference file is configurable (See column 6, lines 5-16, also see column 4, lines

66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on "

continuously updated", also see column 6, lines 62-67, wherein "configurable" reads on "real

time").

As to claim 12, <u>Easty et al.</u> discloses wherein the system determines the length based on

the user's responses made with user control point (See column 5, lines 49-61, also see column 4,

lines 28-49).

As to claim 13, <u>Easty et al.</u> discloses wherein the media content files are sent to the user

via an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see

"column 1, line 47, wherein "stream" reads on "downstream data", also see column 3, lines 54-

63, and see column 1, lines 59-63).

As to claim 14, <u>Easty et al.</u> discloses wherein the processing module periodically selects

testing media content files to distribute to the user (See column 4, lines 66-67, and column 5,

lines 13, wherein "periodically" reads on "in real-time", and wherein "testing" reads on

"recommends... a new CD"), wherein the testing media content files are randomly selected to

test whether the user's media content file preference have changed (See column 2, lines 36-67,

wherein "randomly selected" reads on "refreshes...selectively delivering", and wherein "testing"

reads on "interactive").

As to claim 15, Easty et al. discloses wherein the processing module further modifies the

preference file based on responses of other users having similar media preferences (See column

4, lines 62-65, also see column 3, lines 1-10, wherein "processing module " reads on "central

server", and wherein "responses of other users" reads on "aggregate profile").

As to claim 30, Easty et al. discloses a method of automatically detecting media content

preferences (See column 10, lines 37-40), comprising:

determining a score (See column 4, lines 15-24, wherein "score" reads on "rating") for a

media content file (See column 2, lines 58-60, wherein "media" reads on "digital", also see

abstract) distributed to a user by a media content file distribution source (See figure 1, end server

13), wherein the score (See column 4, lines 15-24, wherein "score" reads on "rating") is

calculated based on a comparison (See column 5, lines 46-63) of a length in time in which the

user allows the media content file to be played at a user computing devise (See column 4, lines

37-49) relative to a total length of the media content file (See column 4, lines 28-36);

storing a preference file (See figure 1, end point database 14) for the user of the media

content file distribution source (See figure 1, end server 13), the preference file being (See

column 5, lines 1-21) based on previously determined media scores for the user and a

determination of local media content files stored on the user's computing devise (See column 7,

lines 1-12, also see column 4, lines 15-36, wherein "agenting section" can be stored on a user's

PC); and

modifying the preference file based on the score, wherein the processing module (See

column 6, lines 5-16) further selects a second media content file to distribute to the user based on

the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines

66-67, wherein "score" reads on "rating").

As to claim 31, Easty et al. discloses wherein the media content file is a music file (See

column 2, line 10-17).

As to claim 32, Easty et al. discloses wherein a rate at which the preference file is

modified is configurable (See column 6, lines 5-16, also see column 4, lines 66-67, wherein "the

rate" reads on "real time" and wherein "configurable" reads on " continuously updated", also see

column 6, lines 62-67, wherein "configurable" reads on "real time").

As to claim 33, Easty et al. discloses further including determining the length based on

the user's responses made with user control point (See column 5, lines 49-61, also see column 4,

lines 28-49).

As to claim 34, Easty et al. discloses further including sending the media content file to

the user via an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network",

also see "column 1, line 47, wherein "stream" reads on "downstream data", also see column 3,

lines 54-63, and see column 1, lines 59-63).

As to claim 35, Easty et al. discloses further including periodically selecting testing

media content files to distribute to the user (See column 4, lines 66-67, and column 5, lines 13,

wherein "periodically" reads on "in real-time", and wherein "testing" reads on "recommends... a

new CD"), wherein the testing media content files are randomly selected to test whether the

user's media content file preference have changed (See column 2, lines 36-67, wherein

"randomly selected" reads on "refreshes... selectively delivering", and wherein "testing" reads on

"interactive").

As to claim 36, Easty et al. discloses further including modifying the preference file

based on responses of other users having similar media preferences (See column 4, lines 62-65,

also see column 3, lines 1-10, wherein "processing module " reads on "central server", and

wherein "responses of other users" reads on "aggregate profile").

As to claim 37, Eastey et al. discloses an article compromising a storage medium having

stored thereon instructions that when executed by a machine result (See column 3, lines 42-63,

wherein "storage medium" reads on "memory", and wherein "instructions" reads on "software",

and wherein "machine" reads on "computer") in the following:

determining a score (See column 4, lines 15-24, wherein "score" reads on "rating") for a

media content file (See column 2, lines 58-60, wherein "media" reads on "digital", also see

abstract) distributed to a user by a media content file distribution source (See figure 1, end server

13), wherein the score (See column 4, lines 15-24, wherein "score" reads on "rating") is

calculated based on a comparison (See column 5, lines 46-63) of a length in time in which the

user allows the media content file to be played at a user computing devise (See column 4, lines

37-49) relative to a total length of the media content file (See column 4, lines 28-36);

storing a preference file (See figure 1, end point database 14) for the user of the media

content file distribution source (See figure 1, end server 13), the preference file being (See

column 5, lines 1-21) based on previously determined media scores for the user and a

determination of local media content files stored on the user's computing devise (See column 7,

lines 1-12, also see column 4, lines 15-36, wherein "agenting section" can be stored on a user's

PC); and

modifying the preference file based on the score, wherein the processing module (See

column 6, lines 5-16) further selects a second media content file to distribute to the user based on

the preference file (See column 2, lines 63-67, and column 3, lines 1-8, also see column 4, lines

66-67, wherein "score" reads on "rating").

As to claim 38, Easty et al. discloses wherein the media content file is a music file (See

column 2, line 10-17).

As to claim 39, Easty et al. discloses wherein a rate at which the preference file is

modified is configurable (See column 6, lines 5-16, also see column 4, lines 66-67, wherein "the

rate" reads on "real time" and wherein "configurable" reads on " continuously updated", also see

column 6, lines 62-67, wherein "configurable" reads on "real time").

As to claim 40, Easty et al. discloses wherein the instructions further result in

determining the length based on the user's responses made with user control point (See column 5,

lines 49-61, also see column 4, lines 28-49).

As to claim 41, <u>Easty et al.</u> discloses wherein the instructions further result in sending the media content file to the user via an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see "column 1, line 47, wherein "stream" reads on "downstream data", also see column 3, lines 54-63, and see column 1, lines 59-63).

As to claim 42, <u>Easty et al.</u> discloses wherein the instructions further result in periodically selecting testing media content files to distribute to the user (See column 4, lines 66-67, and column 5, lines 13, wherein "periodically" reads on "in real-time", and wherein "testing" reads on "recommends… a new CD"), wherein the testing media content files are randomly selected to test whether the user's media content file preference have changed (See column 2, lines 36-67, wherein "randomly selected" reads on "refreshes…selectively delivering", and wherein "testing" reads on "interactive").

As to claim 43, <u>Easty et al.</u> discloses wherein the instructions further result in modifying the preference file based on responses of other users having similar media preferences (See column 4, lines 62-65, also see column 3, lines 1-10, wherein "processing module " reads on "central server", and wherein "responses of other users" reads on "aggregate profile").

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Easty et al. (U.S.

Patent No. 6,189,008) in view of Laursen et al. (U.S. Patent No. 5,805,804).

As to claim 5, Easty et al. is silent on the method of user control point for the client

system, he does teach the end user device to access the network to be a television set (See

column 3, lines 52-53).

Easty et al. does not disclose wherein the user control point is a remote control.

Laursen et al. discloses wherein the user control point is a remote control (See column 6,

lines 11-12).

Therefore, it would have been obvious to a person having ordinary skill in the art at the

time of the invention was made to have modified Easty et al. to include the user control point is a

remote control.

It would have been obvious to a person having ordinary skill in the art at the time of the

invention was made to have modified Easty et al. by the teaching of Laursen et al., because using

a remote control as user control point for the end user accessing device provides convenience of

system access and control and providing time savings and would allow an individual to control

the device remotely.

Response to Arguments

6.   Applicant's arguments filed February 27, 2003 been fully considered but they are not

persuasive.

Applicant's argument "neither Easty et al. nor Laursen et al., alone, or in combination

disclose, teach, or suggest, the use of a database to store a preference file for a user of the media

content file distribution source, the preference file being based on previously determined media

scores for the user and a determination of local media content files stored on the user's

computing devise".

The Examiner respectfully disagrees pointing to Easty et al. column 4, lines 15-65,

wherein user preferences are either stored at the end servers or on the client's agenting section.

This agenting section recommends content based on user's profile and it also has the ability to

learn the preferences of the user by receiving the rating feedback presented by the user.

Preference based n previously determined rating reads on "preference file being based on

previously determined media scores". Laursen et al. was introduced as combined reference to

show that the user's media files can be controlled by a remote control.

Applicant's argument "Easty et al. does not teach basing a preference guide on a

determination of local media content files stored on the user's computing devise".

The Examiner respectfully disagrees pointing to Easty et al. column 4, lines 30-52,

wherein Easty et al. discloses the content being stored on the user's computer and whereby the

user's rating feedback to the server allows for the process of learning of user's preferences if not

already selected by the user himself/herself when they first entered the profile data.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Neveen Abel-Jalil whose telephone number is 703-305-8114.

The examiner can normally be reached on 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-746-7239 for regular

communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-305-3900.

Marked version

Neveen Abel-Jalil
March 28, 2003